

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Don Carroll, Chair; Dale Weis, Vice-Chair; Janet Sayre Hoeft, Secretary; Paul Hynek, First Alternate; Randy Mitchell, Second Alternate

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON NOVEMBER 8, 2012, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:45 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 11:00 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:45 a.m.

Meeting called to order @ 10:45 a.m. by Carroll

2. Roll Call

Members Present: Carroll, Sayre Hoeft, Hynek

Members Absent: Weis

Staff: Michelle Staff, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Review of Agenda

Hoeft made motion, seconded by Hynek, motion carried 3-0 to approve the review of the agenda.

5. Approval of October 11, 2012 Meeting Minutes

Hoeft made motion, seconded by Carroll, motion carried 2-0 to approve the October 11, 2012 meeting minutes. (Hynek abstained from vote – was not present at the October hearing)

6. Communications - None

7. Site Inspections – Beginning at 11:00 a.m. and Leaving from Room 203

8. Public Hearing – Beginning at 1:00 p.m. in Room 205

Meeting called to order @ 1:00 p.m. by Carroll

Members Present: Carroll, Sayre Hoeft, Hynek

Members Absent: Weis

Staff: Michelle Staff, Laurie Miller

9. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Hoeft:

***NOTICE OF PUBLIC HEARING
JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

NOTICE IS HEREBY GIVEN that the Jefferson County Zoning Board of Adjustment will conduct a public hearing at 1:00 p.m. on Thursday, November 8, 2012 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. No variance may be granted which would have the effect of allowing in any district a use not permitted in that district. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Based upon the findings of fact, the Board of Adjustment must conclude that: 1) Unnecessary hardship is present in that a literal enforcement of the terms of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; 2) The hardship is due to unique physical limitations of the property rather than circumstances of the applicant; 3) The variance will not be contrary to the public interest as expressed by the purpose and intent of the zoning ordinance. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; decisions shall be rendered after public hearing on the following:

V1398-12 – Patricia A New Trust: Variance from Sec. 11.03 (d)1 of the Jefferson County Zoning Ordinance and 15.04(c) of the Jefferson County Land

Division/Subdivision Ordinance which require that all lots shall front on and have access to a public road for a minimum distance of 66 feet, to allow separation of the properties at **W9430 and W9432 Porter Drive**. The site is in the Town of Oakland, on PIN 022-0613-0743-064 (1.02 Acre) in a Residential R-2 zone.

Patricia New presented her petition. There were no questions or comments in favor or opposition of the petition. Greg Anderson, N4154 Sleepy Hollow Rd., did have concerns of the use of the easement if the variance was approved. There was a discussion on the easement.

There was a town response in the file which was read into the by Hoeft approving the petition with stipulations. Staff report was given by Staff.

Hynek questioned the use of the easement. Carroll questioned the petitioner if information on the easement was requested from the Register of Deeds. Hoeft commented on emergency vehicle access and questioned staff on what other issues there may be. Staff explained. Hoeft commented on the concern to look further down the road than the current ownership. Carroll questioned the petitioner about obtaining a recorded access agreement. Hynek questioned ownership of the property to the south. Hynek reviewed the map with the petitioner. There was a discussion on ownership. Hynek questioned the legality of an access easement. There was further discussion on the easement.

V1399-12 – Larry Trieloff, Trieloff Builders/Ted E Swanson Trust Property:

Variance from Sec. 11.07(d)2 to allow a residential addition at less than the required setbacks to centerline and right-of-way of Beach Drive. The property is in the Town of Oakland at **N4309 Beach Drive**, on PIN 022-0613-0813-064 (0.48 Acre) in a Residential R-1 zone.

Larry Trieloff, representing the property owners, presented the petition. There were no questions or comments in favor or opposition of the petition. There was a decision from the town in the file which was read into the record by Hoeft approving this petition. Staff report was given by Staff.

Hynek questioned how long the current owners lived there. He also questioned the raising of the slab, drainage of the property, and if the service utilities to the house were in the ROW. Hynek questioned the original permit and the changes. Carroll commented on the original plan meeting all the setbacks.

10. Decisions on Above Petitions (See files)

11. Adjourn

Motion was made by Hynek seconded by Hoeft, motion carried 3-0 to adjourn @ 2:31 p.m.

If you have questions regarding these matters, please contact the Zoning Department at 920-674-7113 or 920-674-8638.

The Board may discuss and/or take action on any item specifically listed on the agenda.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so appropriate arrangements can be made.

A digital recording of the meeting will be available in the Zoning Department upon request.

DECISION OF THE ZONING BOARD OF ADJUSTMENT

JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2012 V1398

HEARING DATE: 11-08-2012

APPLICANT: Patricia A. New Trust

PROPERTY OWNER: Patricia A. New Trust/Glenn Scott New

PARCEL (PIN #): 022-0613-0743-064

TOWNSHIP: Oakland

INTENT OF PETITIONER: To split off an existing residence without frontage on and access to a public road for a minimum distance of at least 66 feet.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(d)1 & 15.04(c) OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

To create a new R-1 lot with an existing residence without frontage on and access to a public road for a minimum distance of at least 66 feet. The original plat was created in 1924 with a right-of-way, and, according to the Town of Oakland, is not a public road. There are two older existing homes on the property. The Town of Oakland did approve the proposal with several conditions.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____

- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

1. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE the new lot would lack guaranteed access due to the past property development that has taken place (i.e. 15' easement)
2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE there has been random development
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the whole area is split up into small, uneven parcels. It now provides access for emergency services.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED**.

MOTION: Hynek **SECOND:** Carroll **VOTE:** 3-0

CONDITIONS OF APPROVAL: A 20' access easement be documented along the SE property line of W9432 Porter Dr. for the northern parcel at W9430 Porter Dr., and the 2 parcels shall share use and maintenance of their shared well, of which both the easement and the well agreement be recorded with the Register of Deeds between both parties.

SIGNED: _____ DATE: 11-08-2012
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.

DECISION OF THE ZONING BOARD OF ADJUSTMENT

JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2012 V1399

HEARING DATE: 11-08-2012

APPLICANT: Larry Trieloff – Trieloff Builders

PROPERTY OWNER: Ted E. Swanson Trust

PARCEL (PIN #): 022-0613-0813-064

TOWNSHIP: Oakland

INTENT OF PETITIONER: To build an addition to an existing structure at less than required centerline and right-of-way setback.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07 d (2)
OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH
RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

Currently, the structure is an non-conforming structure and does not meet the road setbacks from Beach Drive. On June 29, 2012, the petitioner obtained a Zoning/Land Use Permit for an addition on the west side of the residence meeting all setback requirements. After the permit was issued, the petitioners changed the addition to the east side of the residence. The addition is proposed at 45 feet from the centerline and 21 feet from the right-of-way of Beach Dr. whereas the required setback is 63 feet from the centerline and 30 feet from the right-of-way. The addition is proposed at 914 square foot. The addition would not be going any closer than the existing porch but the addition would be considerably larger than the existing porch.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

